

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	: Chapter 15 Case
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FAIRFIELD SENTRY LIMITED, <i>et al.</i> ,	: Case No. 10-13164 (CGM)
	:
Debtors in Foreign Proceedings.	: Jointly Administered
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FAIRFIELD SENTRY LIMITED	:
(IN LIQUIDATION), acting by and through the	: Adv. Proc. No. 10-03496 (SMB)
Foreign Representatives thereof,	:
	: Administratively Consolidated
Plaintiffs,	:
	:
-against-	:
	:
THEODOOR GGC AMSTERDAM, <i>et al.</i> ,	:
	:
Defendants.	:
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**ORDER DISMISSING PRIOR MOTIONS TO DISMISS ASSERTING
INSUFFICIENT SERVICE OF PROCESS, WITHOUT PREJUDICE, AND
ASSIGNING BRIEFING SCHEDULES FOR MOTIONS FOR LEAVE TO
AMEND AND MOTIONS TO DISMISS FOR INSUFFICIENT SERVICE OF
PROCESS**

This chapter 15 case and its related adversary proceedings were reassigned to Chief Judge Morris on February 28, 2021. The Court held a hearing to determine how best to move forward on pending motions in the remaining open adversary cases on April 21, 2021. Those remaining cases are:

1. Fairfield Sentry Ltd. (In Liquidation), *et al.* v. Citibank NA London, *et al.* 10-ap-03622
2. Fairfield Sentry Ltd. (In Liquidation), *et al.* v. BGL BNP Paribas S.A., *et al.* 10-ap-03626
3. Fairfield Sentry Ltd. (In Liquidation), *et al.* v. BNP Paribas Secs. Servs. Lux., *et al.* 10-ap-03627
4. Fairfield Sentry Ltd. (In Liquidation), *et al.* v. HSBC Secs. Servs. (Lux.) S.A., *et al.* 10-ap-03630

5. Fairfield Sentry Ltd. (In Liquidation), et al. v. HSBC Private Bank (Suisse) S.A., et al. 10-ap-03633
6. Fairfield Sentry Ltd. (In Liquidation), et al. v. Zurich Capital Mkts. Co., et al. 10-ap-03634
7. Fairfield Sentry Ltd. (In Liquidation), et al. v. ABN AMRO Schweiz AG, et al. 10-ap-03635
8. Fairfield Sentry Ltd. (In Liquidation), et al. v. ABN AMRO Schweiz AG, et al. 10-ap-03636
9. Fairfield Sentry Ltd. (In Liquidation), et al. v. UBS AG N.Y., et al. 10-ap-03780
10. Fairfield Sentry Ltd. (In Liquidation), et al. v. BNP Paribas Arbitrage SNC, et al. 10-ap-04098
11. Fairfield Sentry Ltd. (In Liquidation), et al. v. BNP Paribas Private Bank & Trust Cayman Ltd., et al.
10-ap-04099
12. Fairfield Sentry Ltd. (In Liquidation), et al. v. UBS Europe SE, Luxembourg Branch f/k/a UBS Lux. SA, et al. 11-ap-01250
13. Fairfield Sentry Ltd. (In Liquidation), et al. v. Merrill Lynch Int'l, et al. 11-ap-01463
14. Fairfield Sentry Ltd. (In Liquidation), et al. v. BNP Paribas Secs. Nominees Ltd., et al. 11-ap-01579
15. Fairfield Sentry Ltd. (In Liquidation), et al. v. Fortis Bank, SA/NV, et al. 11-ap-01617
16. Fairfield Sentry Ltd. (In Liquidation), et al. v. Citigroup Global Markets Ltd., et al. 11-ap-02770
17. Fairfield Sentry Ltd. (In Liquidation), et al. v. BNP Paribas Espana, et al. 12-ap-01551
18. Fairfield Sentry Ltd. (In Liquidation), et al. v. Citco Global Custody NV, et al. 19-ap-01122

For reasons stated upon the record of the April 21, 2021 hearing, and after due deliberation, and after having given the parties a chance to respond at that hearing; it is hereby

ORDERED that any and all pending motions to dismiss under Federal Rule of Civil Procedure 12(b)(5) for insufficient service of process; and/or any other motions pending for insufficient service of process in any of the aforementioned adversary proceedings, are hereby **DENIED**, without prejudice; and it is further

ORDERED that any motion by any Defendant who wishes to challenge service of process in these cases shall file a motion regarding same by May 21, 2021; and it is further

ORDERED that, as stated upon the record of the April 21, 2021 hearing, each Defendant must file a separate motion pertaining solely to itself in each adversary in which it is challenging service of process—no joint briefs are permitted on this issue; and it is further

ORDERED that any opposition to these motions must be filed by July 26, 2021; replies must be filed by August 2, 2021; no sur-replies shall be allowed; and the Court shall consider these papers at a hearing to be held on August 18, 2021; and it is further

ORDERED that Plaintiff shall be entitled to conduct limited discovery against any Defendant so challenging service of process, including depositions, as outlined upon record of the April 21, 2021 hearing, *see Ganpat v. E. Pac. Shipping, PTE, Ltd.*, ___ F.Supp.3d ___, No. CV 18-13556, 2020 WL 1046336, at *1 (E.D. La. Mar. 4, 2020); and it is further

ORDERED that, for reasons stated upon record of the hearing, Plaintiff shall file new motions for leave to amend the operative complaints—updated to include any intervening rulings—by May 14, 2021; opposition to these motions shall be filed by June 4, 2021; and any replies shall be filed by June 11, 2021; no sur-replies shall be allowed; the Court shall consider these motions at a hearing held on July 28, 2021; and it is further

ORDERED that the filing of these motions shall render moot any and all pending motions for leave to amend (and any corresponding opposition) filed prior to the filing date of these motions.

Dated: April 26, 2021
Poughkeepsie, New York



/s/ Cecelia G. Morris

Hon. Cecelia G. Morris
Chief U.S. Bankruptcy Judge